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Impediments in the Insurance Marketplace for Affordable Housing

Updated 2/16/2024

Affordable Housing Background

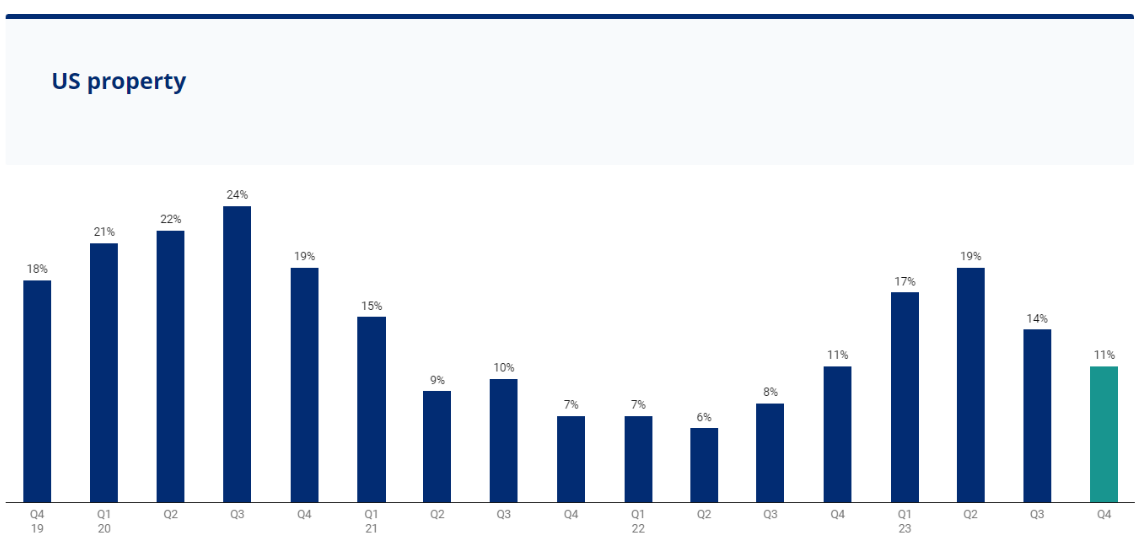
The United States is experiencing an affordable housing crisis caused by years of inadequate production and exacerbated by rising interest rates and rapid inflation. It is essential that federal, state, and local policy makers take pro-active steps to preserve existing affordable housing and increase production of new housing. To increase housing supply and help resolve the crisis, there is broad and bipartisan consensus amongst lawmakers and advocates to strengthen and expand the Low-Income Housing Tax Credit (LIHTC) through the passage of the Affordable Housing Credit Improvement Act (AHCIA).

Insurance Inflation Is a Clear Present Threat to The Housing Ecosystem Today

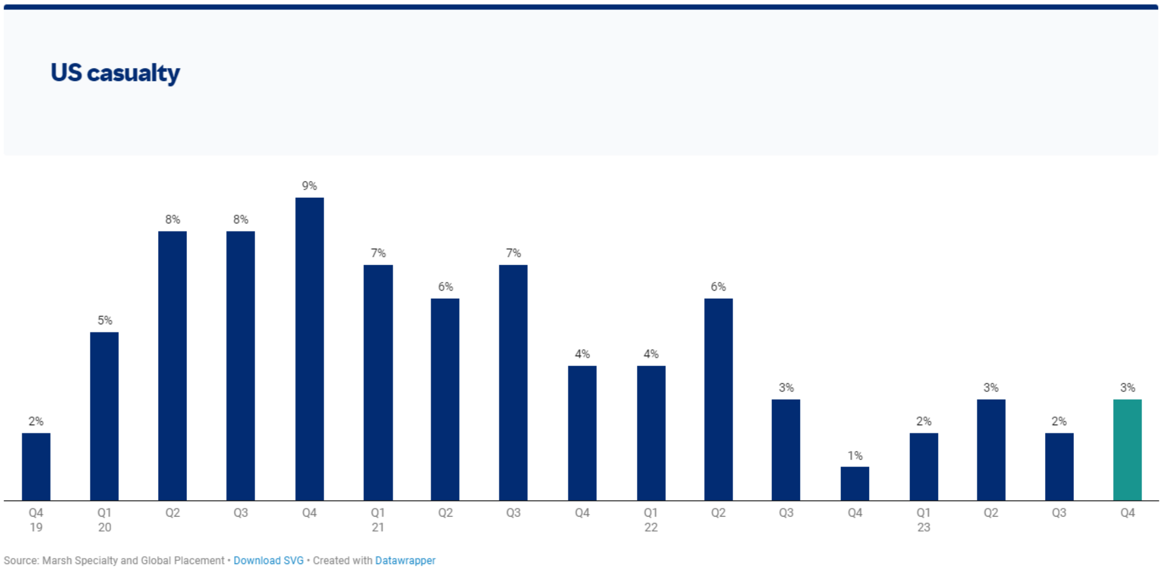
Strengthening and expanding affordable housing production programs including the LIHTC and Multifamily Housing Bonds are critical to meeting our collective housing needs; however, this action alone is insufficient due to another looming threat – insurance premium inflation.

Affordable housing developers, owners and operators are experiencing unprecedented challenges relating to increased property casualty, general liability, and builders risk insurance premiums. If not addressed soon, insurance premium inflation will cause irreparable harm to existing affordable housing communities and prevent the ability of developers to finance desperately needed new affordable housing supply.

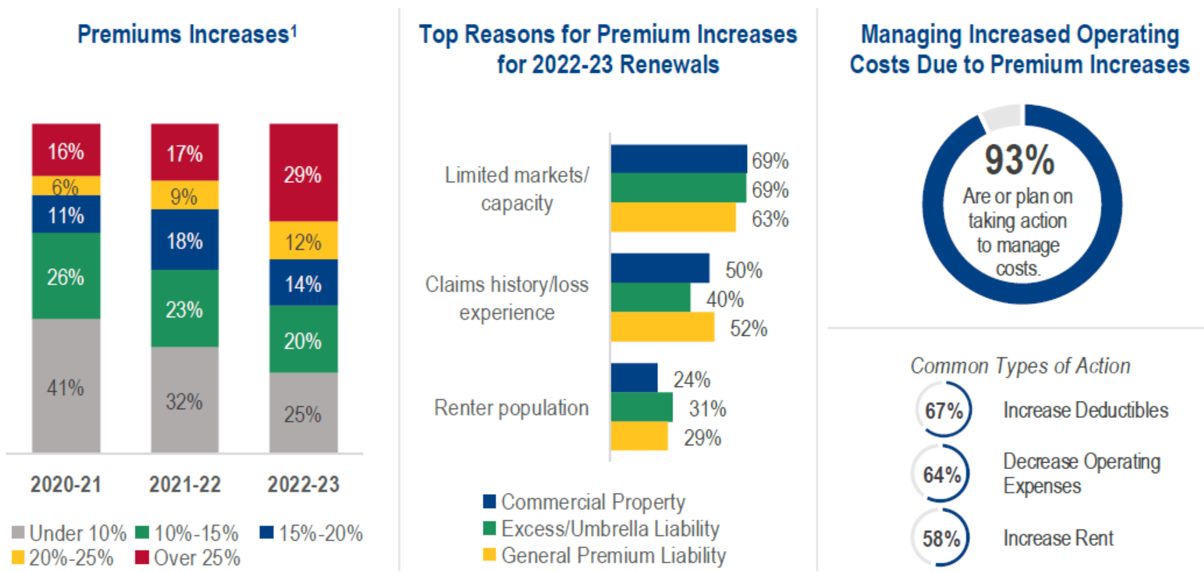
According to Marsh's Global insurance market index, property insurance rates have increased for twenty-five consecutive quarters, continuing the longest run of increases since the inception of the index in 2012. Property insurance experienced the largest increases of any major product line. In Q4



property insurance rates increased by 11% and casualty insurance rates increased 3%; excluding workers' compensation, the increase was 5%.[1]



Source: Marsh, Global insurance market index, Q4 2023



Source: National Leased Housing Association and NDP Analytics

[1] https://www.marsh.com/us/services/international-placement-services/insights/us-insurance-rates.html

Over the past three years insurance premiums have skyrocketed, with many providers experiencing year-over-year premium increases from 30-100+ percent at affordable rental housing communities.[2] In a recent survey of 418 affordable and conventional housing providers operating a total of 2.7 million apartments, NDP Analytics found that for 2022-23 policy renewals, 75% of housing providers experienced premium increases in excess of 10% and 29% of housing providers experienced premium increases of 25% or more (compared to 17% in the prior year).[3] Additionally, over 93% of housing providers indicated that they would take action to mitigate cost increases due to higher insurance premiums. Three most common actions are increasing insurance deductibles, decreasing operating expenses, and increasing rent.

Rising Insurance Premiums Harm Affordable Housing Supply

Escalating insurance premiums are a significant contributor to rent inflation and broadly affect rental housing affordability across the country. Because they cannot pass premium increases through to residents, affordable housing operators are particularly vulnerable to insurance inflation and should receive special consideration.

A fundamental characteristic of LIHTC and other affordable housing communities is that they are both income-restricted (targeting families earning no more than 60% of area median income) as well as rent-restricted (where programmatic rents are set so that total housing costs, including rent and utilities, do not exceed 30% of the family's income). <u>Unlike conventional apartment owners, operators of affordable rental communities are extremely limited in their ability to pass premium increases through to residents</u>.[4]

If left unchecked, inevitably cash-flow at properties will decrease and property reserves are depleted, leaving owners of affordable apartments with only undesirable options: defer maintenance, cut back on services, opt-out from affordability as use restrictions expire and/or default on their debt.

[2] NMHC State of Multifamily Risk Survey & Report, June 2023 https://www.nmhc.org/research-insight/research-report/nmhc-coalition-survey-shows-multifamily-insurance-costs-continue-to-rise/

[3] Pham, Nam D. and Mary Donovan, "Increased Insurance Costs for Affordable Housing Providers," October 2023

[4] Programmatic LIHTC rent limits may increase modestly if the area median income rises; however, it should be noted that many communities experience flat rent due to their demographic or market characteristics. In any event, historic programmatic rent increases have not kept pace with insurance premium inflation. Furthermore, total rent increases at affordable properties are limited not just by market demand but also by programmatic rent caps issued by HUD, or local rent regulations and/or by market conditions. While subsidized properties with project-based rental assistance as well as public housing are eligible for Operating Cost Adjustment Factors (OCAF) or Annual Adjustment Factors (AAFs) – it is important to note that AAFs and OCAFs have not increased in proportion to the rate of insurance premium increases.

Year	OCAF (national average)	AAF (national regions average, highest cost utility excluded)	**US Annual Inflation Rates**
2024	5.3%	TBD (update in March)	3.1% (Last 12 months)
2023	6.1%	3.59%	3.4%
2022	3.1%	3.33%	6.5%
2021	2.5%	2.7%	7.0%
2020	2.2%	2.2%	1.4%

Escalating Insurance Premiums Inhibit Housing Production

According to the National Multi Housing Council, the U.S. needs to build 4.3 million more apartments by 2035 to meet the demand for rental housing.[5] Insurance inflation is a significant barrier to the development and financing of this desperately needed new affordable housing. Developers today are already experiencing an incredibly challenging development environment. Due to supply-chain disruptions and the run-up in interest rates[6], development budgets are already stressed to the breaking point. When underwritten, skyrocketing operating costs (like insurance premiums) decrease debt proceeds further, making more transactions unfeasible.

While owners and developers of affordable housing and conventional multifamily housing can take steps to reduce other types of operating expenses (e.g., utility expenses can be reduced over time through investment in sustainability and energy efficient design) there are few options for owners to mitigate rising insurance premiums. Property casualty and general liability policies are not "optional" coverages; lenders, investors, State Housing Finance Agencies, HUD, and the USDA *require* owners to maintain adequate insurance coverage throughout the life cycle of a property.

Additionally, developers and builders have also seen a dramatic increase in the price of builders' risk policies. In recent years underwriting criteria for builders' risk have tightened, leading to increased premiums, deductibles, and warranty requirements. This is exacerbated in markets that have experienced major claim events from natural disasters, named storms, wildfires, arson and/or civil unrest.[7]

Even in markets that do not have an elevated risk for natural disasters, obtaining a builders' risk policy can be particularly challenging. Insurance underwriters increasingly require developers and builders to implement costly security measures on multi-family wood frame job sites. It is common today for insurers to require security fencing, video monitoring, and/or 24-hour security as a condition for coverage which can add hundreds of thousands of dollars to construction budgets.

The Insurance Marketplace Is Increasingly Dysfunctional

There are several factors that are contributing to the runup in insurance premiums across the affordable housing and multifamily rental ecosystems. According to a recent report from SwissRE, insured losses from natural disasters in 2023 were $260 billion and they were $286 billion 2022 (the previous ten year average was $235 billion).[8] Furthermore, the U.S. accounted for over $95 billion of insured global losses[9] and half of global economic losses in both 2021 and 2022.[10] In short, insurers view U.S. multifamily housing as riskier and price policies accordingly.

[5] https://www.nmhc.org/industry-topics/affordable-housing/apartment-supply-shortage/

[6] Our industry has benefited in recent years from historically low interest rates; however, as monetary policy has shifted, we believe there is an added sense of urgency to take additional action. Since the beginning of 2022, the yield on the 10-year Treasury has tripled, increasing from 1.5% to as high 4.98% as recently as 10/18/2023. The yield on the 10-year Treasury closed at 4.15% on 2/5/24.

[7] https://www.crcgroup.com/Tools-Intel/post/carriers-shift-more-risk-onto-builders-for-multi-family-frame-projects

[8] https://www.swissre.com/press-release/Insured-losses-from-severe-thunderstorms-reach-new-all-time-high-of-USD-60-billion-in-2023-Swiss-Re-Institute-estimates/4a15acf7-64b4-4766-8662-1c35d268ab12

9 https://www.munichre.com/en/company/media-relations/media-information-and-corporate-news/media-information/2024/natural-disaster-figures-2023.html

[10] https://bks-partners.com/make-a-soft-landing-in-a-hard-market-2/

The recent increase in extreme weather events around the country has led many insurance underwriters to simply stop writing multifamily property casualty policies in the United States or in specific markets, like the Gulf Coast. For example, following the recent devastation from Hurricane Ian in Southwest Florida, the United Property & Casualty Insurance Company (a significant regional insurance carrier) went insolvent. This is at least the 15th Florida insurance carrier that has gone insolvent since 2020.[11] According to Fitch Ratings, "Axis Capital Holdings Ltd. is exiting the state, while AXA XL, AIG, and Swiss Re have already cut business there." [12] The crisis is not limited to Florida – during this period at least 20 insurers in Louisiana have either failed or left the state.[13] States impacted by tornados convective storms as well as wild-fires and flashfloods are increasingly feel the same pressure.[14] Likewise, major insurers including State Farm, All State and AIG are no longer writing new homeowners policies in California.[15]

Increased risk of property claims is not the only factor that drives insurance premium increases. In our inflationary environment, construction costs have increased dramatically which in turn has increased the replacement value of current rental housing assets. This has been particularly pronounced since March of 2020. When the total insurable value (TIV) of multifamily assets increase, owners must buy higher limits of coverage and premiums increase (not always) proportionately.

Furthermore, due to the increase in litigation and large dollar judgements, many providers of general liability policies are increasingly declining to write policies for affordable housing communities or in zip-codes where there is a proliferation of subsidized housing. This has been driven in part by the prevailing use of "Crime Scores" by multifamily insurance carriers to help assess and price general liability risk. In many carriers will simply refuse to issue coverage if crime scores exceed a defined threshold. This disproportionately and negatively impacts multifamily affordable housing because rental units accessible to low- and moderate-income families are often located in areas with relatively high crime scores. Furthermore, according to research conducted by the Center for Real Estate Excellence at Virginia Tech[16], there are at least ten reasons why crime scores may not accurately depict the risk associated with criminal activity for a specific affordable housing property. The net effect is so pronounced many stakeholders have concluded that it is effectively discriminatory red lining of affordable housing communities.

These dynamics are further exacerbated by the expansion of the "litigation funding" industry. Litigation funding is a $39 billion worldwide industry whereby hedge funds and vulture capital entities in the capacity of "silent partners" bankroll commercial litigation (often charging the plaintiffs usurious rates

[11] https://www.insurancejournal.com/magazines/mag-features/2023/03/20/712556.htm and https://news.bloomberglaw.com/insurance/storm-driven-insurer-insolvencies-stir-state-actions-explained
[12] https://news.bloomberglaw.com/insurance/storm-driven-insurer-insolvencies-stir-state-actions-explained
[13] https://www.foxbusiness.com/features/more-insurance-companies-pull-out-louisiana-crisis
[14] https://www.insidepandc.com/article/2bipkc88n43fsbdriru9s/industry-wide/property-market-braced-for-heavy-loss-bill-from-q1-convective-storms?utm_medium=social+media+organic&utm_source=linkedin&utm_campaign=ipc_contentshowcase_2023-04-11
[15] https://www.axios.com/2023/06/06/climate-change-homeowners-insurance-state-farm-california-florida and https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/aig-to-exit-california-homeowners-insurance-market-at-january-end-68512476
[16] Roberts, Jeffrey G., "10 Reasons to Carefully Consider How Insurance Carriers Use Crime Scores to Assess Risk in the Affordable Housing Industry"

akin to payday lending[17]), which are paid back after insurance settlements.[18] In 2020, AM Best (an insurance industry rating agency) downgraded "U.S. commercial general liability insurance segment, owing to unfavorable claims trends driven by social inflation and other factors such as third-party litigation financing."[19] In the subsequent three years, the insurance industry has responded to the growing trend of inflated settlements and verdicts (a Dallas County jury recently returned a staggering $860 million(!) verdict in a wrongful death suit at a multifamily construction project[20]) by pursuing large rate increase and tighter terms and conditions.

Even factors like the performance of the insurance industry investment portfolio performance have a measurable impact on the current premium hike environment. According to the National Association of Insurance Commissioners (NAIC) "insurers have faced a challenging investment environment for more than ten years." Insurance companies hold significant amounts of corporate bonds as well as structured securities like CLOs, residential mortgage-backed securities (RMBS) and consumer back securities (ABS) as investments. The value of these investments has decreased over the past year because of the changing interest rate environment. Generally speaking, the value of these investments fall as interest rates rise.[21] This is exactly the financial dynamic that led to the recent crisis in the banking industry resulting in the collapse of Silicon Valley Bank and Signature Bank. Furthermore, as interest rates rise, the cost of borrowing for insurance companies is also increasing, creating additional pressure on their balance sheets. To offset these dynamics and to ensure they are maintaining mandated capital ratios (so they can continue to pay existing and new claims) insurers are also raising premiums even when risks and TIVs have not materially increased.

Lastly, it is important to understand that the property and casualty marketplace function differently than multifamily financing markets. Insurance procurement function as a true "bid-ask" market. Policies are not priced on an index like the mortgage finance industry. As such, there is less predictability on how policies will price and there is increased volatility in markets such as we are experiencing today where there are few buyers. This dynamic also further limits the ability of property owners to negotiate or fine-tune risk structures with the insurers and reinsurers that hold the policies.

Given the compounding headwinds hitting the insurance industry at the same time, there are fewer providers in the space willing to participate, creating an imbalance of supply and demand, particularly for affordable assets. This imbalance is creating a need to dramatically increase premiums simply to attract investment into the insurance market to provide sufficient coverage.

Potential Policy Solutions for Consideration

There are several overlapping federal strategies policy makers might consider to stabilize the insurance marketplace for affordable housing developers and property owners.

Federal Back Stop: A combination of diminishing competition and the increase of named storms and presidentially declared natural disasters are the primary drivers of market disruption for property insurance. To entice insurers back into the marketplace, it may be beneficial to create a structure

[17] "Consumer Litigation Funding: Just Another Form of Pay Day Lending?" Paige Marta Skiba & Jean Xiao, Vanderbilt University Law School, https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=2038&context=faculty-publications
[18] https://www.forbes.com/advisor/insurance/litigation-funds/
[19] https://news.ambest.com/presscontent.aspx?refnum=30201&altsrc=9
[20] https://www.bizjournals.com/dallas/news/2023/04/27/crane-collapse-case-greystar.html
[21] "The Impact of Rising Rates on U.S. Insurer Investments," National Association of Insurance Commissioners

whereby there is a federally backed reinsurance entity that can provide catastrophic coverage above a pre-defined dollar loss amount. This could be built on the backbone of an existing government sponsored insurance or guarantor entity like the Federal Housing Administration (FHA), Fannie Mae or Freddie Mac. Alternatively, Congress could charter a government sponsored entity (GSE) with a specific mission to serve affordable housing market and/or take the form of a federally backed guarantee or credit enhancement to existing private-sector providers in the marketplace.

Alternatively, policy makers could authorize the creation of a specific federally backed insurance product to carve out coverage for pre-defined limited scope risks (e.g., named storms or federally declared disasters) where the market is not performing efficiently. A similar approach was taken by Congress after 9/11 with the enactment of the Terrorism Risk Insurance Act (TRIA), which created a federal program that provides for a transparent system of shared public and private compensation for certain insured losses resulting from a certified act of terrorism.[22]

In another example, after major losses in 1929, the private insurance industry abandoned the coverage of flood losses in 1929. For more than two decades there was no functioning market for flood insurance so periodically, after major disasters Congress provided direct assistance to disaster victims. Eventually, it enacted the Federal Flood Insurance Act of 1956 and then the National Flood Insurance Act of 1968[23], which established the National Flood Insurance Program, now administered by FEMA.[24]

Yet another example, the Federal Crop Insurance Corporation (FCIC) was chartered by congress in 1938 to help the agricultural industry recover from the Great Depression and Dust Bowl. Initially, Federal Crop Insurance was limited in scope to certain crops and certain producing areas. It was expanded in 1980 by Federal Crop Insurance Act (FCIA). Since 1980, the general concept has evolved somewhat but the 1980 program and its successor programs provide another interesting corollary example. Depending on certain factors, most farmers and multifamily developers/owners are required to obtain and maintain minimum catastrophic insurance coverage for their crops and buildings. FCIC initially established a program whereby the federal government subsidized insurance premiums for farmers equal to 30 percent of the premium limited to the dollar amount at 65% coverage. In time successor programs adjusted the premium structure to more of a sliding scale (based on coverage).[25] What is also notable and potentially attractive about this approach is that FCIC insurance policies are sold and serviced through private insurance companies and the Department of Agriculture reinsures the insurance companies losses pursuant to standard reinsurance agreements (SRA).[26]

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[22] https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program

[23] https://www.fema.gov/sites/default/files/2020-07/fema_nfip_eval_chronology.pdf

[24] Because of the challenges in the broader property insurance market, it is absolutely critical that the NFIP is reauthorized and reformed to ensure its long-term viability. Ensuring that the NFIP is able to continue to ensure that affordable flood insurance is available at all times, in all market conditions for every at-risk rental property is essential. These include more than just high-rise multifamily properties in urban centers and extend across every state to include rental homes of all sizes and types. The reauthorization and reform of the NFIP remains a top priority to protect property investments and to help manage the increasing costs of providing housing that is affordable.

[25] https://www.rma.usda.gov/en/About-RMA/History-of-RMA

[26] On January 10, 2024 Representative Adam Schiff introduced the Incorporating National Support for Unprecedented Risks and Emergencies (INSURE) Act, which amongst other things would establish a Federal Catastrophe Reinsurance Program within the Department of Treasury to cap insurer' liability in the case of a catastrophic event above a threshold developed by the Secretary and an advisory committee of experts. The measure also calls for significant investments in loss prevention and risk mitigation.

An additional approach policy makers may consider could be to create a liquidity facility for insurers and/or reinsurers. This could be modeled in part on the Municipal Liquidity Facility (MLF), which was a Federal Reserve program to buy up debt from state and local governments that suffered revenue declines as a result of the COVID-19 pandemic. Under the MLF program, the Fed bought short-term municipal notes from states as well as certain city and county governments and multistate entities, effectively extending emergency funding to these governments. A similar facility could be created to extend additional financial support for insurers in the admitted and/or excess and surplus markets after major catastrophe events. The facility could be administered directly through a federal agency such as the Federal Reserve, one of the government sponsored entities (e.g., Fannie Mae, Freddie Mac or the Federal Home Loan Banks) and/or administered as a pass through state insurance commissioners.

Tort Reform/Premises Liability Reform: Limited tort reform or premises liability reform may be effective in managing the growth of general liability/casualty premiums. This could be done by standardizing the evidentiary threshold necessary to prove damages for certain civil actions, require certain disclosures with respect to claims for medical expenses for treatment rendered under letters of protection, reduce the statute of limitations for negligence actions, standardize bad faith actions, and alter presumptions in certain negligent security matters. Legislators may also wish to consider enacting limitations on and/or disclosure requirements on litigation funding. Policy makers should consider recently enacted premise liability legislation in Florida or more mature premise liability reform legislation enacted in Mississippi several years ago as potential models for further exploration.

Facilitate the Creation of Community-Based Catastrophe Insurance (CBCI): According to a 2021 report by Marsh & McLennan, **"**Community-based catastrophe insurance (CBCI) is defined as disaster insurance arranged by a local governmental or quasi-governmental body or community group covering a group of properties within the community. There are two key features of CBCI: that it is purchased or facilitated by some type of community entity and that it covers multiple properties. Beyond these two features, there can be enormous flexibility in the structure and design of CBCI."[27] A CBCI policy could either replace or better still supplement insurance policies available in the private market where there is limited competition or protection gaps.

There are many reasons why communities pursue the creation of a CBCI including: reducing their contingent disaster liabilities, reducing premium costs for members of the community, increasing insurance availability in underserved markets, leveraging specialized data to help insurers more accurately underwrite risks, as well as capturing savings derived from investments in community resiliency.

For the purposes of setting up a CBCI, a community can be defined broadly – it could be a agency in municipal, county or state government, a special purpose district, neighborhood association, business improvement district or any entity that has the ability to secure or facilitate insurance coverage including potentially financial intermediaries like Government Sponsored Entities.

A CBCI could even be created to serve assets with shared characteristics (e.g., affordable housing) but disparate geographies. If tied with investments in resiliency and/or robust risk management and loss

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[27] https://www.brinknews.com/why-we-need-community-based-catastrophe-insurance/?utm_source=BRINK+Subscribers&utm_campaign=3d6fb45bf9-EMAIL_CAMPAIGN_2020_07_30_07_49&utm_medium=email&utm_term=0_c3639d7c98-3d6fb45bf9-110213249

mitigation best practices, a CBCI could benefit the creation or preservation of community assets and potentially offset costs to other adjacent government initiatives (e.g., gap-financing programs needed to offset higher operating expenses, disaster recovery funding, etc.).

To facilitate the creation of CBCIs domestically, communities and industry partners will need to come together to design solutions. Additionally, federal and state agencies will need to develop appropriate regulatory frameworks. Congress and/or state legislatures can accelerate the adoption of the model by funding research and/or CBCI pilots. Notably, community-based insurance model's do exist in other insurance sectors and internationally.[28]

Incentivize the Creation of a Domestic Reinsurance Marketplace: Reinsurance is insurance that an insurance company purchases from another insurance company to insulate itself (at least in part) from the risk of a major claims event. It plays a critical role in the property casualty marketplace, particularly in markets where there are greater risks of natural disasters. Today, there are very few reinsurers that are willing to participate in the multifamily and affordable housing marketplace. This lack of competition creates additional premium pressure.

It is important to note that many reinsurers for the US domestic casualty marketplace today are based over-seas in England, Central Europe, and Asia[29] where US regulators have diminished ability to incent participation and competition. This dynamic could be rectified by creating tax or other incentives for regulated US-based financial or insurance institutions to participate as reinsurance providers in higher risk geographies and/or for subsidized housing. If structured correctly, this could also encourage foreign reinsurers to incorporate regulated US subsidiaries to participate more fulsomely in the US domestic marketplace.

Tax Incentives: To help off-set the downside of insurance claims and effectively bring down TIVs and premiums, Congress could create a tax-incentives such as a tax-credit or similar tax-incentive covering a portion of the hard costs of a claim at a LIHTC or other subsidized property. To manage costs, this tax incentive could be constrained to cover limited circumstances such as claims deriving from named storms, presidential declared disasters and or catastrophic total loss or near total loss casualty events. We would recommend that Congress take care to structure tax incentives to have the ability to be syndicated to maximize their utility and ability to raise capital.

Additionally, Congress and the IRS could take additional steps to ensure that LIHTCs will be available to LIHTC investors if units and/or properties are off-line because of a major casualty event. Current guidance from the IRS is insufficiently flexible, particularly when there is a major catastrophic event at property that requires an extended period of recovery. As a result, LIHTC developers typically must buy additional coverage to insure not just the physical asset but also the flow of LIHTCs, which add an additional incremental cost.

Fair Access to Insurance Requirements (FAIR) Plan Reform/Expansion: Fair Access to Insurance Requirements (FAIR) plans have been implemented in 26 states, the District of Columbia and Puerto Rico, pursuant to the Urban Property Insurance Protection and Reinsurance Act of 1968 to mitigate urban deterioration by reducing unfair insurance practices. FAIR plans are state-mandated property

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[28] https://esg.wharton.upenn.edu/news/why-we-need-community-based-catastrophe-insurance/
[29] https://www.reinsurancene.ws/top-50-reinsurance-groups/

insurance plans that provide coverage to individuals and businesses who are unable to obtain insurance in the regular market. These plans are typically used as a last resort and provide basic coverage for properties that are considered high-risk or difficult to insure due to factors such as location, age, or type of construction.

While these plans are instituted at the state level, they are financially backed by all private insurers licensed to write insurance in that state. Each of these companies shares in FAIR Plan profits, losses, and expenses at an amount proportional to its market share in the state. This allows multiple insurance companies to share the risk of the most high-risk homes, rather than just one company. FAIR plans are typically more expensive and have more limited protection as compared to insurance obtained in the regular market. These plans are typically only intended to provide coverage for catastrophic events. FAIR Plan insurance coverage varies by state and generally, coverage is not available to commercial property owners.[30] Congress could potentially amend the Urban Property Insurance Protection and Reinsurance Act of 1968 to facilitate or mandate FAIR Plans offer coverage for multifamily and/or government subsidized housing. Additionally, state legislatures and state insurance commissioners could expand programs through administrative action to ensure coverage is available for particular asset classes like affordable housing.

Facilitate Risk Retention Groups: A risk retention group (RRG) is an insurance company formed pursuant to the federal Risk Retention Act (RRA) of 1981, which was amended in 1986 to allow insurers underwriting all types of liability risks except workers compensation to avoid cumbersome multistate licensing laws. A risk retention group (RRG) must be owned by its insureds. Most RRGs are formed as captives and must be domiciled onshore, except for those grandfathered under the 1981 Act.[31] RRGs may benefit their members in several ways including: combined purchasing power, tailored homogenous insurance programs, share in underwriting profits and related investment income, flexibility with respect to coverage forms and claims handling, incentive for risk management and loss control, and better access to reinsurance markets.

Due to market failures, for many industry participants, RRGs are not always able to procure the tailored policy coverages they need or are simply not available to certain types of insured or in certain markets. Legislation at both the state and federal level could expand access to this strategy creating more market competition.

In addition to legislation broadening the ability to leverage RRG strategies, complimentary changes can also be made in the administration of federally-insured mortgage programs at HUD as well multifamily debt products guaranteed by Fannie Mae and Freddie Mac that would allow broader utilization of RRGs, captive and pooled insurance strategies under existing legal authority.

Model "CRA" for Insurers & Reinsurers: Policy makers could build upon the model of the Community Reinvestment Act (CRA), to create a regulatory framework that encourages insurers to meet the insurance needs of low- and moderate-income rental communities and/or communities most impacted by extreme weather events. A positive "Community Insurance Score" could be a condition of maintaining an insurer's charter, accessing potential federal reinsurance products, accessing preferential financing and/or as a consideration for mergers and acquisitions. This could potentially be further tied to

[30] https://content.naic.org/cipr-topics/fair-access-insurance-requirements-fair-plans
[31] https://www.irmi.com/term/insurance-definitions/risk-retention-group

affordable housing goals in communities where they may be writing other types of insurance policies (e.g., car insurance, life insurance, etc.). For such a framework to be effective, it would need to cover insurers that are active in the standard/admitted insurance markets as well as those that provide excess and surplus (E&S) lines of coverage outside of a state's admitted market. It should be noted that a large proportion of professionally managed multifamily and affordable rental housing purchases coverage through non-admitted carriers in the excess and surplus market.[32] Standard/admitted carriers must follow state regulations concerning how much they can charge and what risks they can or cannot cover. Surplus lines carriers do not have to follow these regulations which allows them to take on higher risks or offer alternative coverages. E&S coverages typically cost more, are subject to state taxes and are not covered by state guaranty associations.

Price Supports: Congress and the federal government have a long history of intervening in the agricultural sector dating back to the New Deal. For example, the Commodity Credit Corporation (CCC) was established to set threshold prices for certain crops. In this model, the federal government set minimum prices and then lent money to farmers with the crop as the applicable collateral. If market prices for the covered crops fell below the threshold prices, the federal government absorbed the losses. This effectively served as a backstop against downward price fluctuations. Of course, this program was designed for the deflationary environment of the Great Depression whereas, our current crisis is driven by inflation. However, aspects of this approach could be adapted as a premium subsidy tool. For example, a federal grant and/or soft/forgivable loan product (perhaps structured as a line of credit and administered by state insurance commissions) could be leveraged to subsidize owners in premium inflation environments or to subsidize insurance or reinsurances losses as a stop-gap measure.

Additional Research & Study:

Many aspects of the insurance subsectors are governed and regulated at the state level. Additional efforts should also be taken by Congress and Federal Agencies to research and study innovative local policy strategies that address disruptions in these markets. The federal government should convene and share these insights with relevant state and local stakeholders. Likewise, we recommend specific further study on the use of crime scores and other algorithm derived underwriting tools whose uses may have a disparate impact on affordable housing and disadvantaged communities.

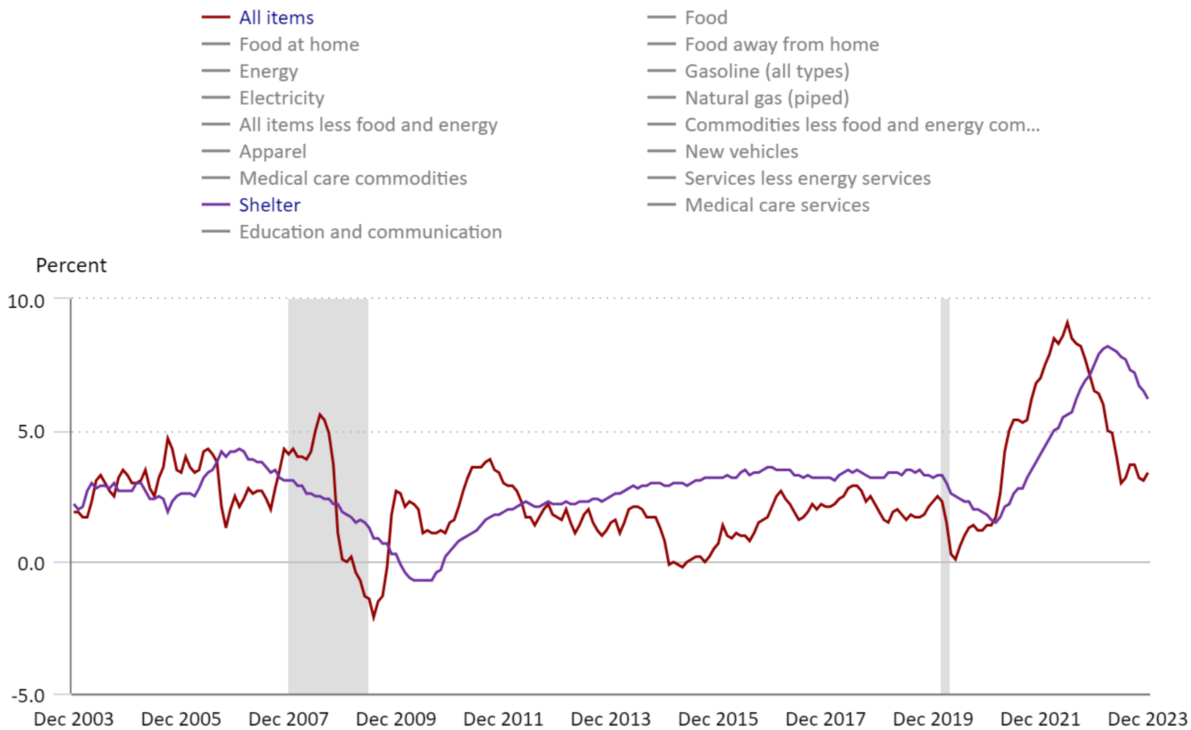
About Fairview Housing Partners

Fairview Housing Partners is a non-profit affordable housing organization dedicated to expanding access to quality, affordable homes in communities where they are needed most. Our activities including include real estate development, facilitating capital investments to develop or preserve affordable housing, the provision of resident servicer and supply focused policy advocacy.

[32] The Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) authorizes insurers to place property and casualty (P&C) insurance coverage on a surplus lines basis.

Appendix: CPI Change Over Time

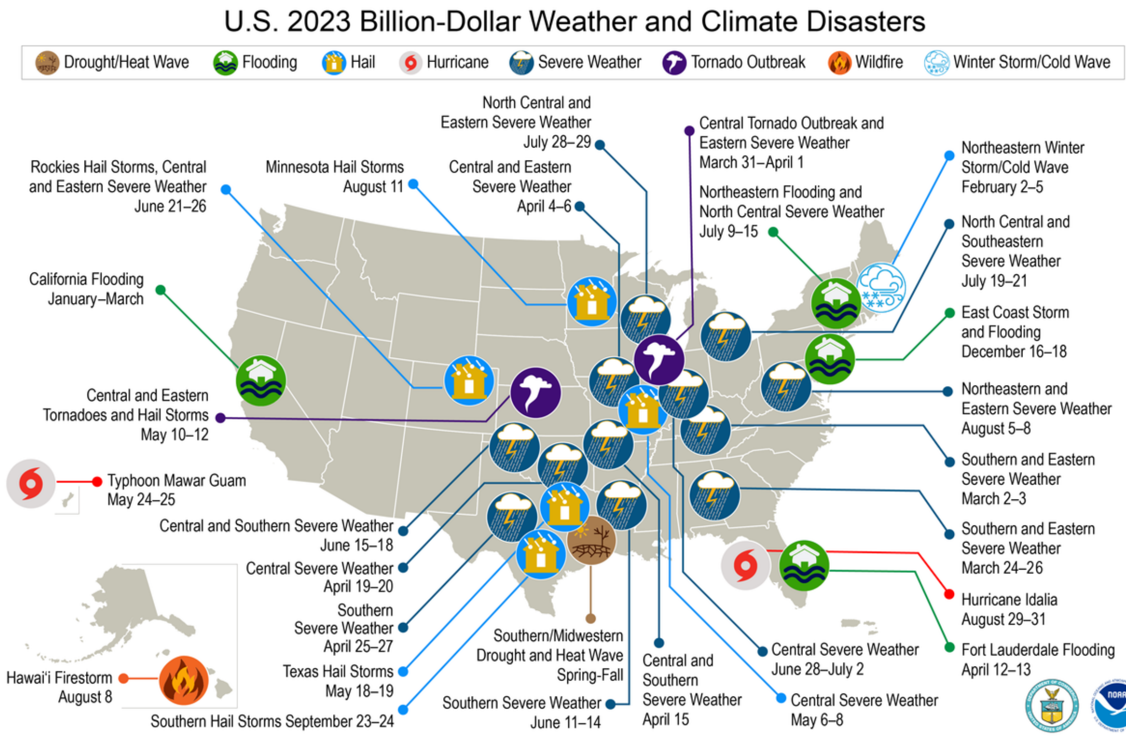
12-month percentage change, Consumer Price Index, selected categories, not seasonally adjusted



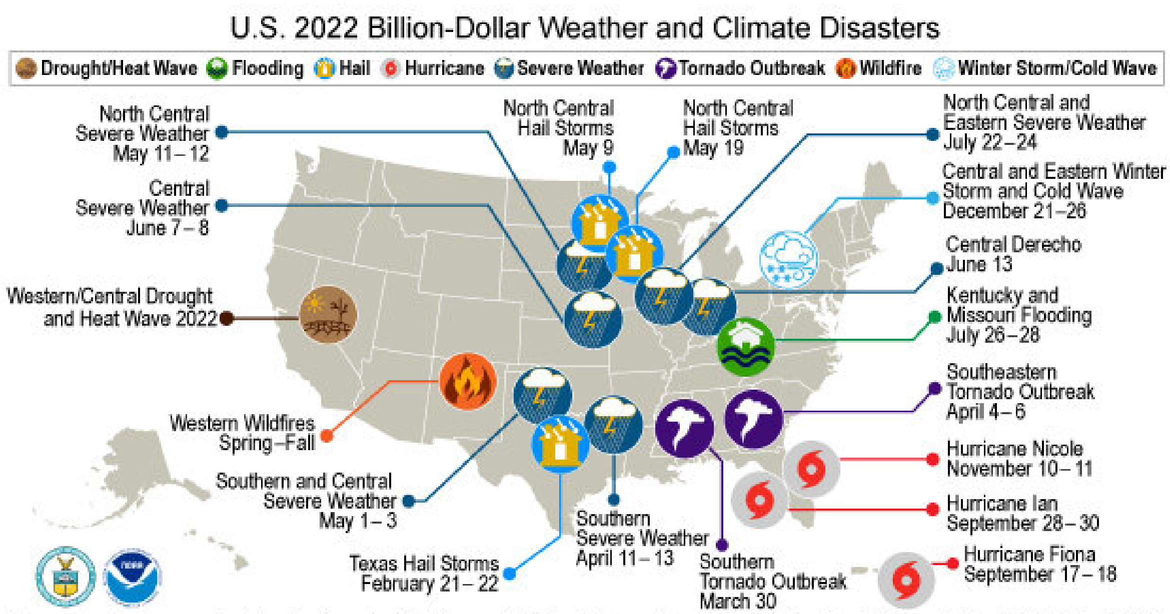
Source: U.S. Bureau of Labor Statistics.

Appendix: Billion-Dollar Weather and Climate Disasters

Sources: National Centers for Environmental Information[33]

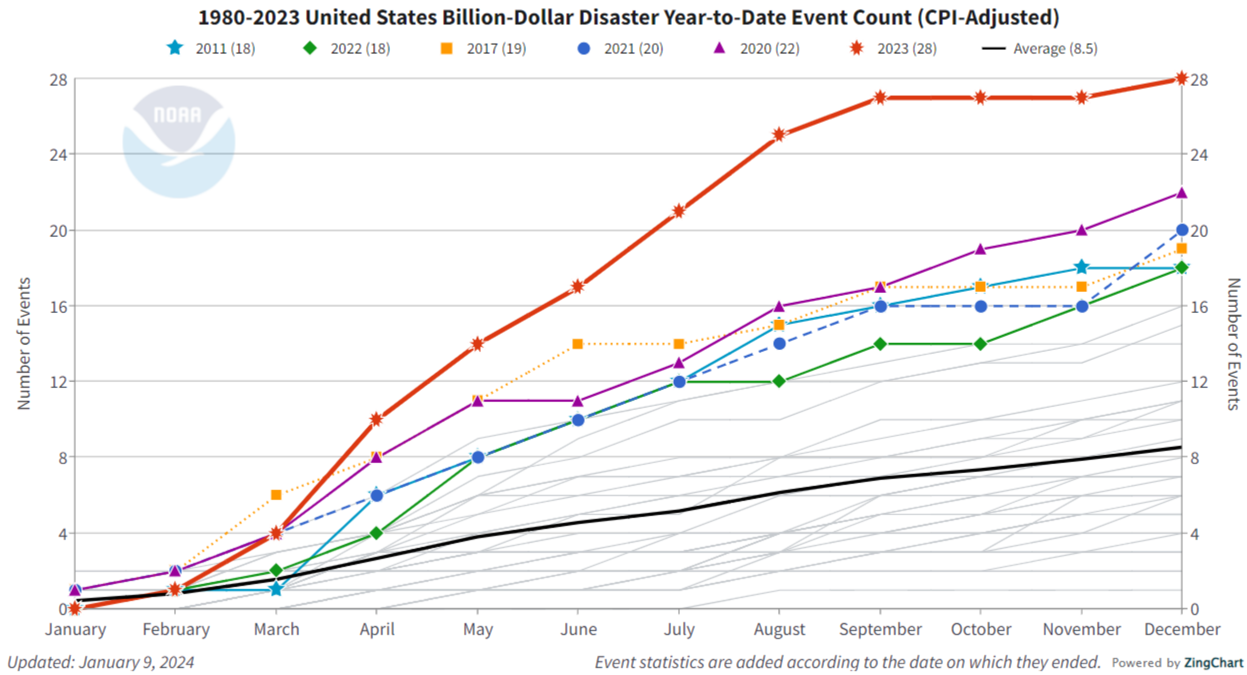


This map denotes the approximate location for each of the ***28 separate billion-dollar weather and climate disasters that impacted the United States in 2023.***



This map denotes the approximate location for each of the ***18 separate billion-dollar weather and climate disasters that impacted the United States in 2022.***

[33] https://www.ncei.noaa.gov/access/billions/ and https://www.climate.gov/news-features/blogs/beyond-data/2022-us-billion-dollar-weather-and-climate-disasters-historical


1980-2023 United States Billion-Dollar Disaster Year-to-Date Event Count (CPI-Adjusted)
2011 (18)
2022 (18)
2017 (19)
2021 (20)
2020 (22)
2023 (28)
Average (8.5)
Number of Events
January
February
March
April
May
June
July
August
September
October
November
December
Updated: January 9, 2024
Event statistics are added according to the date on which they ended.
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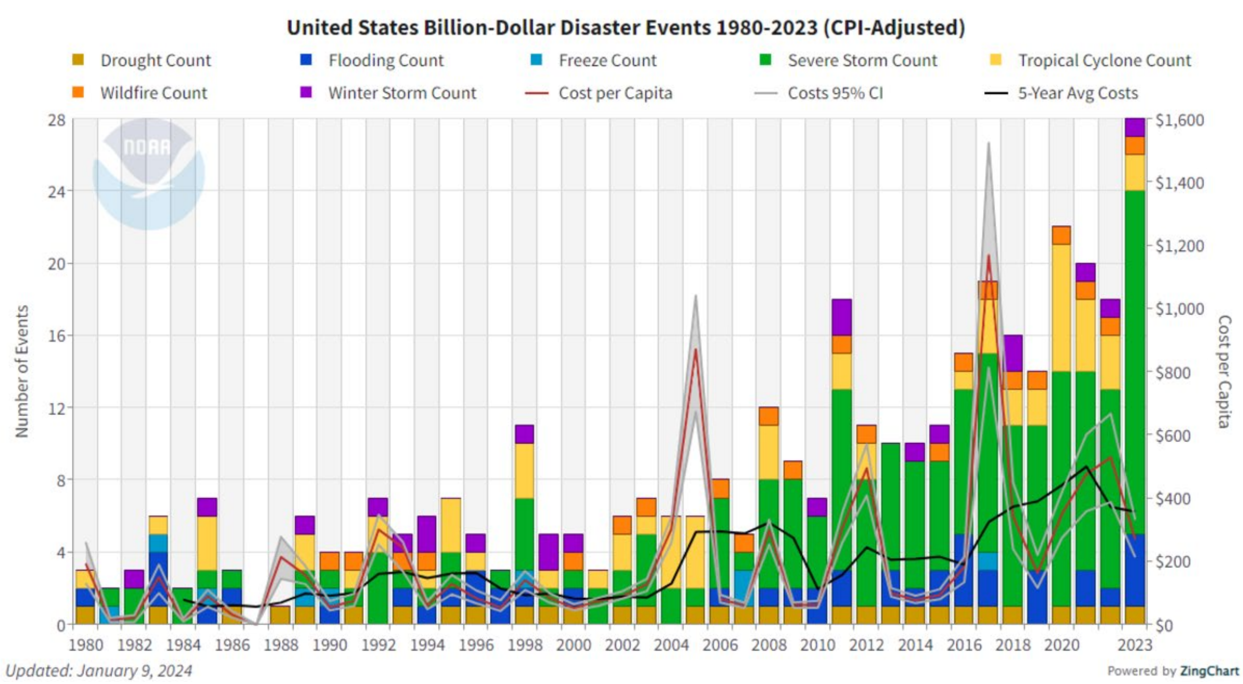
United States Billion-Dollar Disaster Events 1980-2023 (CPI-Adjusted)
Drought Count
Flooding Count
Freeze Count
Severe Storm Count
Tropical Cyclone Count
Wildfire Count
Winter Storm Count
Cost per Capita
Costs 95% CI
5-Year Avg Costs
Number of Events
Cost per Capita
Updated: January 9, 2024
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